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Via e-mail: behavioralmarketingprinciples@ftc.gov

Donald S. Clark
Secretary
Federal Trade Commission
Room H-135 (annex N)
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Mr. Clark:

Thank you for the opportunity to participate in the discussion of the Federal Trade Commission's Proposed Self-Regulatory Principles for Online Behavioral Advertising, released on December 20, 2007.

Verizon's comments are respectfully submitted in the attached document.

Sincerely,


Kathleen Zanic

**VERIZON RESPONSE TO THE FEDERAL TRADE COMMISSION'S
PROPOSED SELF-REGULATORY PRINCIPLES FOR
ONLINE BEHAVIORAL ADVERTISING**

Verizon¹ recognizes and applauds the FTC's longstanding commitment to protecting consumer privacy in both the offline and online environments. Most recently, the FTC's examination of online behavioral advertising has provided valuable discourse in an area of emerging interest to consumers and businesses alike. Verizon supports the FTC goal of balancing support for innovation with the need to protect consumers against harm. We appreciate the opportunity to provide comment on the FTC staff's proposed governing principles for behavioral advertising.

Protecting our customers' private information has always been a key priority for Verizon. We remain committed to maintaining strong and meaningful privacy protection for our customers in an era of rapidly changing technological advances. Verizon, through one of its predecessor companies, NYNEX, was one of the first companies to establish a Chief Privacy Officer position and to embrace the creation of an online privacy policy. Verizon Wireless has been a leader in guarding customer information by refusing to support or participate in the development of any wireless telephone number directory and by fighting pretexters who pose as customers to gain access to call records. We provide consumers with notice about the kinds of information we collect and with the power to choose how such information is used for marketing purposes.

Self regulatory principles guiding the tracking, collection and sharing of consumers' online activities would help promote sound industry practices and increase

¹ In addition to Verizon Wireless, the Verizon companies participating in this filing ("Verizon") are the regulated, wholly owned subsidiaries of Verizon Communications Inc.

consumer confidence in the Internet. The digital economy will continue to flourish as long as consumers can trust their online experiences and know what to expect from the sites they choose to visit. A self-regulatory approach also allows for the flexibility necessary to respond to changing marketplace conditions, technologies and consumer demands.

As discussed in more detail below, many of the FTC's proposed self-regulatory principles, if properly implemented, will benefit consumers. However, the FTC should carefully tailor the definition of behavioral advertising and should limit the scope of the principles to behavioral advertising activities.

I. THE PRINCIPLES SHOULD CAREFULLY DEFINE BEHAVIORAL ADVERTISING AND BE LIMITED TO BEHAVIORAL ADVERTISING ACTIVITIES

A. The Current Definition of "Behavioral Advertising" Is Overly Broad.

The FTC defines online "behavioral advertising" as the "tracking of a consumer's activities online – including the searches the consumer has conducted, the web pages visited, and the content viewed – in order to deliver advertising targeted to the individual consumer's interests." That definition is overly broad and should be revised so that it does not encompass consumers' interactions on specific websites.

Consumers make the deliberate decision, based on their needs and preferences, to interact with specific websites and to provide information to such sites. Collecting information about these interactions should not be considered tracking of online behavior. The ability of websites to collect such data about their visitors can often allow the sites to

provide a more personalized and beneficial experience for the consumer. Unfortunately, however, the current definition of “behavioral advertising” would govern that very conduct.

For example, after a customer purchases a new phone on the Verizon Wireless website, Verizon Wireless might offer the customer helpful suggestions for specific accessories available for that particular phone or other products and services of interest. Such targeted information could prove valuable to the consumer, who would be able to view all accessories and features available in a concise and convenient format. A restriction on the use of this information on the same website would force the consumer to view a cluttered webpage that shows the services and accessories compatible to *all* Verizon Wireless phones currently on the market. Not only would sorting through those incompatible products and services delay and complicate a customer’s potential transaction, but it may also deter the entire transaction, thus harming both the customer and Verizon Wireless.

The definition of “behavioral advertising” should therefore be modified such that the self-regulatory principles do not apply to the use of consumer information by the website operator for the customer’s use on that same website or related websites owned or controlled by the same operator.

B. Requiring Affirmative Express Consent for Material Changes to Existing Privacy Policies May Harm Customers.

In its third principle, the FTC proposes that before a company can use data in a manner materially different from the company policies in effect when it collected the data, a company must obtain “affirmative express consent” from its consumers.

The proposed self-regulatory principles appear to be intended solely for behavioral advertising activities. Yet the text of the third principle, as currently drafted, extends beyond the issue of behavioral advertising to regulate privacy policies in general. As written, the principle could limit any changes companies make to their privacy policies for any purpose.

Moreover, requiring opt-in consent may provide a disincentive to making beneficial changes to privacy policies because of the difficulty in obtaining such consent. For instance, restricting the ability to implement changes to privacy policies may lead companies not to adopt changes in which its use of customer data may be more restrictive than it was previously. Given the many costs and inefficiencies associated with an overly broad opt-in requirement, the result would be to delay or even avoid altogether customer-benefiting changes to privacy policies. It is not necessary here to revise customer notification practices in place today for changes in privacy policies that are unrelated to behavioral advertising activities.

II. THE GENERAL CONCEPTS OUTLINED IN OTHER PROPOSED PRINCIPLES WILL HELP PROMOTE SOUND INDUSTRY PRACTICES.

Proposed Principle #1 – Transparency and Consumer Control.

The FTC's first proposed principle advises that every website where data is collected for behavioral advertising provide a clear, concise, consumer-friendly and prominent statement that data is being collected for use in providing targeted advertising. According to the principles, the statement should allow consumers to choose whether or not to have their information collected for such purposes. The principle also suggests

that a website provide consumers with a clear, easy-to-use and accessible method for exercising this option.

Indeed, consumers should be provided clear, concise and user-friendly notice if information regarding their online activities will be collected for purposes of online behavioral advertising. Consumers should also have the ability to opt out of their information being used for online behavioral advertising purposes. In addition, a sound private-sector-led initiative to increase consumer awareness and education regarding online behavioral advertising would provide additional benefit. It may also be helpful for the private sector to investigate whether a uniform or consistent notice and opt out mechanism can be created.

Proposed Principle #2 – Reasonable Security and Limited Data Retention for Consumer Data.

The FTC's second proposed principle recommends that companies that collect or store consumer data for behavioral advertising provide reasonable security for that data based on the sensitivity of the data, the potential risks of disclosure and the protections available. In addition, this principle recommends that organizations retain data only as long as is necessary to fulfill legitimate needs.

Companies must adopt reasonable security measures to protect the data collected about customers and retain that data only for as long as is necessary to fulfill legitimate business needs. Self-regulatory principles should recognize that companies are in the best position to understand the types of data they collect, and to decide the best manner and level of protection for securing that data and the length of time to keep that data. Security measures should be commensurate with the sensitivity of the information.

In addition, online behavioral advertising practices should discourage the tracking of strings of numbers to avoid any inadvertent collection of Social Security numbers, financial account numbers or payment card information. Sound practices should also include a prohibition against collection of data from secure pages such as those that contain a secure hyper text transfer protocol (https:) designation. With these prohibitions in place, the potential for nefarious uses, such as identity theft or account fraud would be eliminated or greatly reduced, should this sensitive information fall into the wrong hands.

Proposed Principle #4 – Affirmative Express Consent to (or Prohibition Against) Using Sensitive Data for Behavioral Advertising.

The FTC's fourth principle suggests that there are categories of sensitive data that should only be collected after obtaining the consumer's affirmative express consent.

In general, Verizon supports the heightened protection of sensitive data. However, as the FTC itself recognizes, "sensitive data" needs to be more precisely - and carefully - defined. To be sure, as discussed above, sensitive personal information such as Social Security numbers or financial account numbers should not be collected for behavioral advertising due to the likely harm to consumers if the data were compromised, in addition to the attenuated relevance of this information for the marketing of most products and services. But further study is required so that "sensitive data" is defined with great care. A one-size-fits-all prohibition on the use of broad categories of information could undermine the user experience.

Proposed Principle #5 – Call for Additional Information regarding Use of Tracking Data for Purposes Other than Behavioral Advertising.

The FTC requests additional information regarding the potential uses of tracking data beyond behavioral advertising, particularly whether specific secondary uses raise additional concerns.

There are a number of positive secondary uses of data that might be collected for behavioral advertising. In many instances, a user's online experience can be greatly enhanced by a website's ability to use anonymized data for site optimization, market research, product recommendations, and content personalization. It is not correct to assume that all secondary uses of behavioral advertising data are inappropriate or harmful.

III. CONCLUSION

Verizon appreciates the FTC's recognition that self-regulatory initiatives may be the best way to balance privacy and innovation in the context of behavioral advertising. Verizon welcomes further discussion on this topic and encourages the FTC to promote continued dialogue among all stakeholders.